RESERVED

Writ Petition no. 1308 of 2002

Harbans Singh Chopra and others---------- Petitioners

Versus

Board of Revenue and others ---------- Respondents

Hon'ble M.M. Ghildiyal, J.

Heard learned counsel for the parties.

The petitioner has challenged the order dated 28.9.1999 passed by learned Member, Board of Revenue, whereby he has condoned the delay in filing the appeal by the State and admitted the appeal.

The case of the petitioner is that he had filed a declaratory suit under section 229 B of the Zamindari Abolition & Land Reforms Act before the S.D.M. Laksar district Haridwar which was instituted as suit no. 13 of 1996-97. The said suit was decreed on 9.12.1996. The State government aggrieved from the order-dated 9.12.1996 filed appeal before the Divisional Commissioner, Meerut alongwith application under section 5 of the Limitation Act for condonation of delay. The petitioner filed objection to the said application for condonation of delay. On 5.11.1997 the Divisional Commissioner Meerut rejected the application under section 5 of the Limitation Act for condonation of delay.

Aggrieved from the order of Divisional Commissioner dated 5.11.1997 the State filed second appeal before the Board of Revenue alongwith application u/s 5 of the Limitation Act for condonation of delay. The learned Member vide order dated 28.9.1999 has condoned the delay and admitted the appeal. The petitioner has challenged the order condoning the delay. The petitioner has alleged that the petitioner has made a submission that no cause of delay was explained by the respondent for delay in filing the appeal before the Commissioner. The petitioner has annexed copy of application under section 5 of the Limitation Act, which was filed before the Board. There is sufficient cause explained by the respondents for delay in

filing the appeal. The court has found the cause sufficient for condonation of delay. I find no infirmity in the impugned order.

The writ petition is dismissed. No order as to the costs.

February 17, 2003 **(M.M. Ghildiyal, J.)**
MPS